

REMARKS

The present application has been amended in a manner believed to place the application in condition for allowance.

Claim 1 has been amended only to clarify the claimed invention. Claims 1-35 are pending in the present application. Claims 5-9, 12, 14, 20-25, 27, 28, and 33-35 have been withdrawn from consideration as being directed to non-elected species.

Claims 1-4, 10, 11, 13, 15-19, 26, and 29-32 were rejected under 35 USC §103(a) as allegedly being unpatentable over WO 99/36445 (English equivalent U.S. 6,197,287) in view of FR 97-04876 (English equivalent U.S. 6,353,034). Applicants respectfully traverse the rejection.

U.S. '287 discloses an inverted latex comprising an oil phase, an aqueous phase, a water-in-oil emulsifier, an oil-in-water emulsifier, and an anionic polyelectrolyte. U.S. '287 may disclose an inverted latex and fatty acid esters such as octyl palmitate in a moisturizing cream composition, but U.S. '287 fails to disclose or suggest the fatty acid esters as the constituent solvent of the oil phase of an inverse latex as recited in the claimed invention. Indeed, there is no recognition in U.S. '287 of selecting a fatty acid ester to form, compose, or make up a portion of a solvent to be used in an oil phase of an inverted latex. Accordingly, applicants believe that there would even be less incentive for one skilled in the art to use one of the specific fatty acid esters as recited in the

dependent claims (e.g. Formula Ib) part of a solvent for an oil phase of an inverted latex. U.S. '287 also fails to disclose or suggest the recited emulsifying agent of the oil-in-water type as recited in claims 15-18 of the present invention.

U.S. '034 teaches compositions comprising alkyl polyglycosides as emulsifiers. The compositions also include an oil phase of fatty acid esters and synthetic polymer stabilizers, including crosslinked polymers. U.S. '034 fails to disclose or suggest a self-invertible inverse matrix composition comprising an oil phase with a constituent solvent being fatty acid esters, an aqueous phase, at least one emulsifying agent of water-in-oil type, at least one emulsifying agent of oil-in-water type, and from 20% to 70% by weight of a branched or crosslinked polyelectrolyte, as recited in claimed invention.

Applicants respectfully submit that there is no suggestion to combine U.S. '287 with U.S. '034. The problem solved by each of the references is different. U.S. '287 is directed to an inverted latex that is intended to be added to a cosmetic formulation at 0.1 to 10%. U.S. '034 is directed to a particular emulsifier type that is intended to be added to a cosmetic formulation, in combination with other emulsifiers. Thus, the inverted latex of U.S. '287 is an intermediate product, and the emulsifier of U.S. '034 is intended to be added to a final product composition. One of ordinary skill in the art

would not look to a final product composition for motivation to modify an intermediate product composition.

Even if one were to combine the references, the combination does not teach the claimed invention. At best, the combination teaches a cosmetic composition comprising an inverted latex without alkyl/glycosides or fatty acid esters as the constituent solvent in the oil phase of the latex. Alkyl glycosides and optionally fatty acid esters are present in the composition, but separate from the latex. The combination does not teach a self-invertible inverse latex composition comprising an oil phase with the constituent solvent being fatty acid esters, an aqueous phase, at least one emulsifying agent of water-in-oil type, at least one emulsifying agent of oil-in-water type and 20% to 70% by weight of a branched or crosslinked polyelectrolyte, as recited in the claimed invention. Therefore, applicants respectfully request that the rejection be withdrawn.

Claims 1-4, 10, 11, 13, 15-17, 26, 29-32 were rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1-15 of U.S. Patent No. 6,197,287. Applicants respectfully traverse the rejection.

U.S. '287 does not claim an oil phase with the constituent solvent being fatty acid esters as claimed in the present invention. Therefore, applicants respectfully request that the rejection be withdrawn.

As to the withdrawn claims, applicants respectfully request that they be rejoined and fully considered in that the proposed combination of references does not teach the claimed invention and for the reasons set forth in the responses of December 15, 2003 and October 15, 2002.

In view of the above, applicants believe the present application is in condition for allowance at the time of the next Official Action. Allowance and passage on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

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